

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GUANT PING ZHU, et al.,

Plaintiffs,

- against -

A PLUS KITCHEN, INC., et al.,

Defendants.  
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<b>USDC SDNY</b> <b>DOCUMENT</b> <b>ELECTRONICALLY FILED</b> DOC #: _____ DATE FILED: <u>9/23/2020</u>
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16-cv-5767 (VSB) (KNF)

**ORDER**

VERNON S. BRODERICK, United States District Judge:

On July 19, 2016, Plaintiffs Guang Ping Zhu (“Zhu”) and Chi How Cheung (“Cheung”) commenced this action under the Fair Labor Standards Act (the “FLSA”) against Defendants A Plus Kitchen, Inc. (“A Plus Kitchen”), “John Doe” Zheng, and various other John Does, by filing a complaint. (Doc. 1.) A Plus Kitchen and Zheng filed an answer through counsel on August 17, 2016. (Doc. 9.) On August 24, 2017, Plaintiffs filed a first amended complaint against A Plus Kitchen, Zheng Cun Zheng (“Zheng” and together with A Plus Kitchen, the “Named Defendants”), and ten other John Does. (Doc. 25.) On September 6, 2017, the Named Defendants entered into a stipulation with Plaintiffs by which they conceded liability as to certain counts of the first amended complaint. (Doc. 27.) Defendants’ counsel filed a motion to withdraw, (Doc. 23), which I granted, (Doc. 28.) On October 30, 2017, Plaintiffs submitted a letter stating that the Named Defendants had informed Plaintiffs that they intended to default in this action, (Doc. 31). On October 30, 2018, Plaintiffs applied for and obtained a Clerk’s Certificate of Default, (*see* Docs. 40–45), then filed a proposed order to show cause for a default judgment, along with declarations and exhibits in support, (Docs. 46–49.) I issued the Order to Show Cause, (Doc. 50), which was duly served on the Named Defendants, (Doc. 51). The

Named Defendants did not appear at the show cause hearing on December 7, 2018, and on December 9, 2018, I issued an order entering their default. I referred the case to Magistrate Judge Kevin Nathaniel Fox for an inquest on damages, on December 10, 2018. (Doc. 52.) Plaintiffs submitted proposed findings of fact and conclusions of law, along with a memorandum of law, declarations, and exhibits in support, (Docs. 56–59.) Magistrate Judge Fox issued his Report and Recommendation on May 29, 2019, recommending that I award the following damages to Plaintiffs: (1) \$67,346.62 to Zhu; (2) \$42,889.16 to Cheung; (3) \$20,197.50 in attorney’s fees; and (4) \$1,114.40 in costs. (Doc. 61, at 12.) Neither Plaintiffs nor Defendants filed an objection to the Report.

In reviewing a magistrate judge’s report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within 14 days of being served with a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). When a party submits a timely objection, a district court reviews de novo the parts of the report and recommendation to which the party objected. 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). When neither party submits an objection to a report and recommendation, or any portion thereof, a district court reviews the report and recommendation for clear error. *Santana v. Comm’r of Soc. Sec.*, No. 17-CV-2648 (VSB) (BCM), 2019 WL 2326214, at \*1 (S.D.N.Y. May 30, 2019); *Marte v. Berryhill*, No. 17-CV-3567 (VSB) (JLC), 2018 WL 5255170, at \*1 (S.D.N.Y. Oct. 22, 2018); *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); *Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).


Here, although the Report and Recommendation explicitly provided that “[t]he parties

shall have fourteen (14) days from service of this Report to file written objections,” (Doc. 61, at 13), neither party filed an objection. I therefore reviewed Magistrate Judge Fox’s thorough and well-reasoned Report and Recommendation for clear error and, after careful review, found none. Accordingly, I ADOPT the Report and Recommendation in its entirety, and Plaintiff’s application for a default judgment is GRANTED. Plaintiff Zhu is awarded \$67,346.62 and Plaintiff Cheung is awarded \$42,889.16. Plaintiffs are also awarded \$20,197.50 in attorney’s fees plus an additional \$1,114.40 in costs.

The Clerk’s Office is respectfully directed to terminate any open motions, to enter judgment in accordance with this Order, and to close this case.

SO ORDERED.

Dated: September 23, 2020  
New York, New York

  
Vernon S. Broderick  
United States District Judge